

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING

2020 MAR -2 PM 2:55

MARGARET BOTKINS, CLERK
CHEYENNE

UNITED STATES OF AMERICA,

Plaintiff,

v.

VICTOR MANUEL HERNANDEZ-
VOLIZ,

Defendant.

CRIMINAL COMPLAINT

Case Number: 20-MJ-21-5

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief.

On or about February 21, 2020, in the District of Wyoming, the Defendant, **VICTOR MANUEL HERNANDEZ-VOLIZ**, being an alien and having been excluded, removed, and deported from the United States on November 7, 2018, was found in the United States without having received the express consent of the Secretary of the Department of Homeland Security since that date to reapply for admission to the United States.

In violation of 8 U.S.C. § 1326(a) and (b)(1).

I further state that I am a Deportation Officer with the United States Department of Homeland Security, Immigration and Customs Enforcement and that this complaint is based on the following facts:

(See attached Sworn Statement)

Continued on the attached sheet and made a part hereof.



Signature of Complainant
VALERY LOZANO

Sworn to before me and subscribed in my presence, by telephone.

March 2, 2020

Date

HON. KELLY H. RANKIN

Chief United States Magistrate Judge

Name & Title of Judicial Officer

at Cheyenne, Wyoming

City and State



Signature of Judicial Officer

**SWORN STATEMENT IN SUPPORT OF CRIMINAL COMPLAINT
DEPORTATION OFFICER VALERY LOZANO
U.S. v. VICTOR MANUEL HERNANDEZ-VOLIZ**

1. I, Valery Lozano, am a Deportation Officer (DO) of the United States Department of Homeland Security, Immigration and Customs Enforcement (hereafter referred to as ICE), assigned to the Craig, Colorado ICE office.

2. I have been employed as a Deportation Officer with the Enforcement and Removal Operations office in Craig, Colorado since July 2019. I have over twelve-years experience enforcing Immigration and Customs laws within the United States. I have successfully completed the Immigration and Customs Enforcement Detention and Removal Operations (DRO) Basic Immigration Law Enforcement Training Program (ICE-D) training course at the Federal Law Enforcement Training Center in Glynco, Georgia. Based on my training and experience in the investigation of federal immigration laws and my investigation of the facts outlined below, I have reason to believe that **VICTOR MANUEL HERNANDEZ-VOLIZ** is unlawfully present in the United States after having been previously removed from the United States by ICE.

3. On February 21, 2020, **HERNANDEZ-VOLIZ** was arrested by the Wyoming Highway Patrol (WHP), in Uinta County, Wyoming, for the charges of Driving While Under the Influence. **HERNANDEZ-VOLIZ** was booked into the Uinta County Jail, located in Evanston, Wyoming. Deputies from the UCSO notified ICE via email on February 21, 2020 that **HERNANDEZ-VOLIZ** had claimed to be a citizen of Honduras and was currently in custody at the facility. On February 24, 2020, your affiant conducted a biographical interview in person at which time **HERNANDEZ-VOLIZ** stated that he was in fact a citizen and national Honduras and

that he unlawfully crossed the U.S. border near McAllen, Texas on or about an unknown date in January 2018.

4. On February 21, 2020, your affiant obtained a copy of **HERNANDEZ-VOLIZ's** fingerprints from the Uinta County Sheriff's Department which were taken during his most recent arrest in Uinta County, Wyoming. The fingerprints were submitted to ICE's biometric identification system (IDENT) and were found to match the pre-existing immigration record associated with **HERNANDEZ-VOLIZ** and an Alien Registration Number of A200867431. These fingerprints were also submitted to the Next Generation Identification (NGI) system and were found to match a pre-existing record associated with **HERNANDEZ-VOLIZ**.

5. On February 24, 2020, your affiant attempted to conduct an interview in order to obtain a sworn statement with **HERNANDEZ-VOLIZ** at the Uinta County Jail. **HERNANDEZ-VOLIZ** was read his rights, per *Miranda*, after which he chose to invoke his rights and would not answer questions without the presence of an attorney. **HERNANDEZ-VOLIZ** was also advised of his right to speak with an officer from the Honduran consulate, as documented on the I-213 Record of Deportable/Inadmissible Alien form.

6. On February 24, 2020, your affiant reviewed documents contained within the Alien Registration File A200867431, pertaining to **HERNANDEZ-VOLIZ**. The documents included:

- 1) A removal order issued by Immigration Judge, Michael P. Baird ordering **HERNANDEZ-VOLIZ** to be removed from the United States to Honduras, dated September 27, 2011;
- 2) a government form I-205, Warrant of Removal/Deportation, revealing **HERNANDEZ-VOLIZ** had been formally removed to Honduras from San Antonio, Texas, on

November 24, 2014, from Houston, Texas on September 14, 2015, and from Mesa, Arizona on November 7, 2018.

7. On February 21, 2020, your affiant reviewed the Computer Linked Application System (CLAIMS) database and found no record or indication that **HERNANDEZ-VOLIZ** had applied to either the Attorney General of the United States, or his successor, the Secretary of Homeland Security, for permission to re-enter the United States after having been formally removed.

8. On February 21, 2020, your affiant reviewed the criminal history related to **HERNANDEZ-VOLIZ** which revealed: 1) a conviction on October 14, 2014 for violation of Title 8, United States Code, Section 1325(a)(1), in which he received 40 days imprisonment. 2) a conviction on August 14, 2014 for ASSAULT-FAMILY MEMBER, in which he received a sentence of 50 days jail. 3) a conviction on July 14, 2015 for ASSAULT CAUSES BODILY INJURY FAMILY MEMBER, in which he received a sentence of 1 year prison. 4) a conviction on September 15, 2017 for DRIVING WHILE INTOXICATED, in which he received a sentence of 70 days jail. 5) a conviction on February 24, 2020 for DRIVING UNDER THE INFLUENCE, in which he received a sentence of 180 days jail.

9. On February 21, 2020, your affiant determined the following facts during the course of the investigation of **HERNANDEZ-VOLIZ**: 1) **HERNANDEZ-VOLIZ** illegally re-entered the United States after having been previously removed from the United States to Honduras, at or near McAllen, Texas, on or about January 2018, by walking across the international border between the United States and Mexico, not at a designated port of entry, and without inspection

by an immigration officer; 2) **HERNANDEZ-VOLIZ** has been residing in Salt Lake City, Utah. 3) **HERNANDEZ-VOLIZ** was arrested using an AKA of **LOPEZ-Viliz, Juan** and claimed to be a Mexican citizen and claimed that he was never removed from the United States. 4) **HERNANDEZ-VOLIZ** will likely flee if released from custody.

END OF SWORN STATEMENT

PENALTY SUMMARY

DEFENDANT NAME: VICTOR MANUEL HERNANDEZ-VOLIZ

DATE: March 2, 2020

INTERPRETER NEEDED: Yes

VICTIM(S): No

OFFENSE/PENALTIES: 8 U.S.C. § 1326(a) and (b)(1)
(Illegal Re-Entry of Previously Deported Alien into the
United States)

0-10 Years Imprisonment
Up To \$250,000 Fine
3 Years Supervised Release
\$100 Special Assessment

AGENT: Valery Lozano, ICE/Craig, CO

AUSA: Jonathan C. Coppom, Assistant United States Attorney

**ESTIMATED TIME OF
TRIAL:** 1 to 5 days

**WILL THE GOVERNMENT
SEEK DETENTION IN THIS
CASE:** Yes

**ARE THERE DETAINERS
FROM OTHER
JURISDICTIONS:** No

DEPARTMENT OF HOMELAND SECURITY
IMMIGRATION DETAINER - NOTICE OF ACTION

Subject ID: 367961730
Event #: CRG2002000011

File No: 200 867 431
Date: February 27, 2020

TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency) US MARSHALL - CHEYENNE
2120 CAPITOL AVE.
CHEYENNE, WY 82001

FROM: (Department of Homeland Security Office Address)
ERO - Craig, CO Sub-Office
ICE
ERO CRAIG SUB OFFICE
466 TUCKER STREET
CRAIG, CO 81626

Name of Alien: HERNANDEZ VOLIZ, VICTOR MANUEL AKA: HERNANDEZ, JOSE MIGUEL; HERNANDEZ VELIZ, VICTOR MANUEL; HERNANDEZ VELIZ, VICTOR MANUEL

Date of Birth: _____ Citizenship: HONDURAS Sex: M

1. DHS HAS DETERMINED THAT PROBABLE CAUSE EXISTS THAT THE SUBJECT IS A REMOVABLE ALIEN. THIS DETERMINATION IS BASED ON (complete box 1 or 2).

- ☒ A final order of removal against the alien;
☐ The pendency of ongoing removal proceedings against the alien;
☒ Biometric confirmation of the alien's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the alien either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or
☒ Statements made by the alien to an immigration officer and/or other reliable evidence that affirmatively indicate the alien either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

2. DHS TRANSFERRED THE ALIEN TO YOUR CUSTODY FOR A PROCEEDING OR INVESTIGATION (complete box 1 or 2).

- ☐ Upon completion of the proceeding or investigation for which the alien was transferred to your custody, DHS intends to resume custody of the alien to complete processing and/or make an admissibility determination.

IT IS THEREFORE REQUESTED THAT YOU:

- **Notify DHS** as early as practicable (at least 48 hours, if possible) before the alien is released from your custody. Please notify DHS by calling ☒ U.S. Immigration and Customs Enforcement (ICE) or ☐ U.S. Customs and Border Protection (CBP) at 970-826-9724. If you cannot reach an official at the number(s) provided, please contact the Law Enforcement Support Center at: (802) 872-6020.
- **Maintain custody** of the alien for a period **NOT TO EXCEED 48 HOURS** beyond the time when he/she would otherwise have been released from your custody to allow DHS to assume custody. The alien **must be served with a copy of this form** for the detainer to take effect. This detainer arises from DHS authorities and should not impact decisions about the alien's bail, rehabilitation, parole, release, diversion, custody classification, work, quarter assignments, or other matters
- Relay this detainer to any other law enforcement agency to which you transfer custody of the alien.
- Notify this office in the event of the alien's death, hospitalization or transfer to another institution.

- ☐ If checked: please cancel the detainer related to this alien previously submitted to you on _____ (date).

V 6755 LOZANO - Deportation Officer

(Name and title of Immigration Officer)

(Signature of Immigration Officer) (Sign in ink)

Notice: If the alien may be the victim of a crime or you want the alien to remain in the United States for a law enforcement purpose, notify the ICE Law Enforcement Support Center at (802) 872-6020. You may also call this number if you have any other questions or concerns about this matter.

TO BE COMPLETED BY THE LAW ENFORCEMENT AGENCY CURRENTLY HOLDING THE ALIEN WHO IS THE SUBJECT OF THIS NOTICE:

Please provide the information below, sign, and return to DHS by mailing, emailing or faxing a copy to _____

Local Booking/Inmate #: _____ Estimated release date/time: _____

Date of latest criminal charge/conviction: _____ Last offense charged/conviction: _____

This form was served upon the alien on _____, in the following manner:

- ☐ in person ☐ by inmate mail delivery ☐ other (please specify): _____

(Name and title of Officer)

(Signature of Officer) (Sign in ink)

NOTICE TO THE DETAINEE

The Department of Homeland Security (DHS) has placed an immigration detainer on you. An immigration detainer is a notice to a law enforcement agency that DHS intends to assume custody of you (after you otherwise would be released from custody) because there is probable cause that you are subject to removal from the United States under federal immigration law. DHS has requested that the law enforcement agency that is currently detaining you maintain custody of you for a period not to exceed 48 hours beyond the time when you would have been released based on your criminal charges or convictions. If DHS does not take you into custody during this additional 48 hour period, you should contact your custodian (the agency that is holding you now) to inquire about your release. If you believe you are a United States citizen or the victim of a crime, please advise DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

NOTIFICACIÓN A LA PERSONA DETENIDA

El Departamento de Seguridad Nacional (DHS) le ha puesto una retención de inmigración. Una retención de inmigración es un aviso a una agencia de la ley que DHS tiene la intención de asumir la custodia de usted (después de lo contrario, usted sería puesto en libertad de la custodia) porque hay causa probable que usted está sujeto a que lo expulsen de los Estados Unidos bajo la ley de inmigración federal. DHS ha solicitado que la agencia de la ley que le tiene detenido actualmente mantenga custodia de usted por un periodo de tiempo que no exceda de 48 horas más del tiempo original que habría sido puesto en libertad en base a los cargos judiciales o a sus antecedentes penales. Si DHS no le pone en custodia durante este periodo adicional de 48 horas, usted debe de contactarse con su custodio (la agencia que le tiene detenido en este momento) para preguntar acerca de su liberación. Si usted cree que es un ciudadano de los Estados Unidos o la víctima de un crimen, por favor avise al DHS llamando gratuitamente al Centro de Apoyo a la Aplicación de la Ley ICE al (855) 448-6903.

AVIS AU DETENU OU A LA DÉTENUE

Le Département de la Sécurité Intérieure (DHS) a placé un dépositaire d'immigration sur vous. Un dépositaire d'immigration est un avis à une agence de force de l'ordre que le DHS a l'intention de vous prendre en garde à vue (après cela vous pourrez par ailleurs être remis en liberté) parce qu'il y a une cause probable que vous soyez sujet à expulsion des États-Unis en vertu de la loi fédérale sur l'immigration. Le DHS a demandé que l'agence de force de l'ordre qui vous détient actuellement puisse vous maintenir en garde pendant une période ne devant pas dépasser 48 heures au-delà du temps après lequel vous auriez été libéré en se basant sur vos accusations criminelles ou condamnations. Si le DHS ne vous prend pas en garde à vue au cours de cette période supplémentaire de 48 heures, vous devez contacter votre gardien (ne) (l'agence qui vous détient maintenant) pour vous renseigner sur votre libération. Si vous croyez que vous êtes un citoyen ou une citoyenne des États-Unis ou une victime d'un crime, s'il vous plaît aviser le DHS en appelant gratuitement le centre d'assistance de force de l'ordre de l'ICE au (855) 448-6903.

NOTIFICAÇÃO AO DETENTO

O Departamento de Segurança Nacional (DHS) expediu um mandado de detenção migratória contra você. Um mandado de detenção migratória é uma notificação feita à uma agência de segurança pública que o DHS tem a intenção de assumir a sua custódia (após a qual você, caso contrário, seria liberado da custódia) porque existe causa provável que você está sujeito a ser removido dos Estados Unidos de acordo com a lei federal de imigração. O DHS solicitou à agência de segurança pública onde você está atualmente detido para manter a sua guarda por um período de no máximo 48 horas além do tempo que você teria sido liberado com base nas suas acusações ou condenações criminais. Se o DHS não leva-lo sob custódia durante este período adicional de 48 horas, você deve entrar em contato com quem tiver a sua custódia (a agência onde você está atualmente detido) para perguntar a respeito da sua liberação. Se você acredita ser um cidadão dos Estados Unidos ou a vítima de um crime, por favor informe ao DHS através de uma ligação gratuita ao Centro de Suporte de Segurança Pública do Serviço de Imigração e Alfândega (ICE) pelo telefone (855) 448-6903.

THÔNG BÁO CHO NGƯỜI BỊ GIAM

Bộ Nội An (DHS) đã ra lệnh giam giữ di trú đối với quý vị. Giam giữ di trú là một thông báo cho cơ quan công lực rằng Bộ Nội An sẽ đảm đương việc lưu giữ quý vị (sau khi quý vị được thả ra) bởi có lý do khả tín quý vị là đối tượng bị trục xuất khỏi Hoa Kỳ theo luật di trú liên bang. Sau khi quý vị đã thi hành đầy đủ thời gian của bản án dựa trên các tội phạm hay các kết án, thay vì được thả tự do, Bộ Nội An đã yêu cầu cơ quan công lực giữ quý vị lại thêm không quá 48 tiếng đồng hồ nữa. Nếu Bộ Nội An không đến bắt quý vị sau 48 tiếng đồng hồ phụ trội đó, quý vị cần liên lạc với cơ quan hiện đang giam giữ quý vị để tham khảo về việc trả tự do cho quý vị. Nếu quý vị là công dân Hoa Kỳ hay tin rằng mình là nạn nhân của một tội ác, xin vui lòng báo cho Bộ Nội An bằng cách gọi số điện thoại miễn phí 1(855) 448-6903 cho Trung Tâm Hỗ Trợ Cơ Quan Công Lực Di Trú.

被拘留者通知書

國土安全部(Department of Homeland Security, 簡稱DHS)已經對你發出移民拘留令。移民拘留令為一給予執法機構的通知書,闡明DHS意欲獲取對你的羈押權(若非有此羈押權,你將會被釋放);因為根據聯邦移民法例,並基於合理的原因,你將會被遞解離美國國境。DHS亦已要求現正拘留你的執法機構,在你因受到刑事檢控或定罪後,而在本應被釋放的程序下,繼續對你作出不超過四十八小時的監管。若你在這附加的四十八小時內,仍未及移交至DHS的監管下,你應當聯絡你的監管人(即現正監管你的機構)查詢有關你釋放的事宜。若你認為你是美國公民或為罪案受害者,請致電ICE執法部支援中心(Law Enforcement Support Center)知會DHS,免費電話號碼:(855)448-6903。

DRAFT NOT COMPLETED

DRAFT NOT COMPLETED